

MAY 06 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HECTOR ENRIQUE JOSUE MONROY
PEREZ,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 05-73974

Agency No. A96-069-678

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 22, 2008**

Before: GRABER, FISHER, and BERZON, Circuit Judges.

Hector Enrique Josue Monroy Perez, a native and citizen of Guatemala,
petitions pro se for review of the Board of Immigration Appeals' order dismissing

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. See Fed. R. App. P. 34(a)(2).

his appeal from an immigration judge's ("IJ") decision denying his application for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *see Ochoa v. Gonzales*, 406 F.3d 1166, 1169 (9th Cir. 2005), and we deny the petition for review.

The record does not compel the conclusion that the untimely filing of Monroy Perez's asylum application should be excused due to changed or extraordinary circumstances. *See* 8 U.S.C. § 1158(a)(2)(D); *see also* 8 C.F.R. § 208.4(a)(4)-(5). Accordingly, we deny the petition as to his asylum claim.

Substantial evidence supports the IJ's denial of withholding of removal because Monroy Perez failed to demonstrate that he was persecuted in the past, or that he will be persecuted in the future, on account of a protected ground. *See Molina-Morales v. INS*, 237 F.3d 1048, 1052 (9th Cir. 2001); *see also Arteaga v. Mukasey*, 511 F.3d 940, 945-46 (9th Cir. 2007); *Ochoa*, 406 F.3d at 1171-72.

Substantial evidence also supports the denial of CAT relief because Monroy Perez did not show it is more likely than not that he will be tortured if he returns to Guatemala. *See Bellout v. Ashcroft*, 363 F.3d 975, 979 (9th Cir. 2004).

PETITION FOR REVIEW DENIED.